

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

STATE OF NEW MEXICO, *ex rel.*
State Engineer, *et al.*,

Plaintiffs,

v.

EDUARDO ABEYTA, *et al.*, and
CELSO ARELLANO, *et al.*,

Defendants.

69cv07896 BB-ACE
RIO TAOS ADJUDICATION

69cv07939 BB-ACE
RIO HONDO ADJUDICATION

(CONSOLIDATED)

MEMORANDUM OPINION AND ORDER

THIS MATTER comes before the Court on the Rio Hondo Acequias' and State's Joint Motion Proposing Procedure to Adopt Stipulated Priorities (Doc. No. 4922, filed April 2, 2007, "Joint Motion"). For the reasons given below, the Court will defer ruling on the Joint Motion.

Movants ask the Court to adopt the priorities recommended in the Special Master's Report (Doc. No. 2143, filed July 23, 1993) for ten ditches. (Joint Motion at 4). Movants are the State Engineer and the ditch associations for six of the ten ditches. (*Id.* at 1, 6-7). The Joint Motion is not signed by counsel for the other four ditches. (*Id.*).

Two of the four non-movant ditches, La Acequia de San Antonio and La Acequia de Los Prandos ("the Valdez Acequias"), filed objections to their priority dates recommended in the Special Master's Report. (Doc. No. 2153, filed August 5, 1993). Those objections are still pending. The Court's review of the Joint Motion's certificate of service and the docket suggests that the Valdez Acequias have not been served with the Joint Motion.

The other two of the four non-movant ditches, Cañoncito North Ditch and Cañoncito South Ditch, did not file objections to the Special Master's Report. The Court subsequently adopted the priority dates in the State Engineer's offer Notices. (Doc. No. 3102, filed February 21, 2003, at 5-6).

The Court will not, at this time, grant the Joint Motion because the Valdez Acequias have pending objections to the Special Master's recommended priority dates, are not movants, apparently have not been given notice of the Joint Motion and, therefore, have not been afforded an opportunity to present their objections to the Joint Motion. *See Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306, 314 (1950) (fundamental requirement of due process in any proceeding which is to be accorded finality is notice reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections).

Movants shall have 30 days from the date of entry of this Order to file an addendum indicating the Valdez Acequias' concurrence in the Joint Motion. The addendum shall be signed by counsel for the Valdez Acequias. Failure to timely file the addendum will result in denial of the Joint Motion. In that event, the Court will then enter a memorandum opinion and order addressing the objections of the Valdez Acequias (Doc. No. 2153, filed August 5, 1993) and the Acequia de Atalaya (Doc. No. 2144, filed July 29, 1993).

IT IS SO ORDERED.


BRUCE D. BLACK
UNITED STATES DISTRICT JUDGE